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SUBJECT: ELEVENTH SESSION OF THE UN SIXTH COMMITTEE AD HOC  
COUNTER-TERRORISM COMMITTEE

[11.](#) (SBU) BEGIN SUMMARY: The eleventh session of the Ad Hoc Committee met on February 5, 6, and 15. Delegations discussed completion of the comprehensive convention; the proposal to convene a high-level conference on counter-terrorism; and the status of intersessional informal negotiations; and adopted its report. The Ad Hoc Committee recommended that the Sixth Committee 1) establish a working group at the sixty-second session of the Assembly with a view to finalizing the draft comprehensive convention and 2) continue to discuss the question of convening a high-level conference under the auspices of the United Nations. END SUMMARY.

[12.](#) (SBU) During the first plenary meeting of the Ad Hoc Committee, delegations reiterated their condemnation of international terrorism in all its forms and the need for international cooperation to counter terrorism. Delegations stressed that the fight against terrorism should be conducted in conformity with the Charter of the United Nations and relevant international law. Concern was raised by some delegations regarding the use of a double standard in the fight against terrorism and some stressed the need to address terrorism's root causes.

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Draft Comprehensive Convention  
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[13.](#) (SBU) Delegations welcomed this session of the Ad Hoc Committee as an opportunity to agree upon outstanding issues in the text of the Comprehensive Convention. Delegations said that the completion of the convention would be a significant contribution to the existing counter-terrorism legal framework. Some delegations noted their commitment to reaching an agreement on the text of the draft convention. (European Union, United States, Japan). Delegations reiterated the importance they attached to the convention, however, concerns were raised about the text and scope of the current draft. The Democratic People's Republic of Korea noted that acts of state terrorism were a serious concern to the international community, and expressed the view that any comprehensive convention must include "state terrorism." As in previous years, some delegations emphasized the need for a legal definition of terrorism (Organization of Islamic Conference, Morocco, Cuba, Libya). Some of these and other delegations underscored the importance of distinguishing between terrorism and the legitimate struggle of a people for self-determination (Organization of Islamic Conference, CARICOM, Libya).

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Question of Convening a High-Level Conference  
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[14.](#) (SBU) During the first plenary meeting of the Ad Hoc Committee, some delegations reiterated their full support for the convening of a high-level conference on counter-terrorism in Egypt. Other delegations said they would consider a conference after the completion of the comprehensive convention.

[15.](#) (SBU) Informal consultations were held on February 6 to discuss the Egyptian proposal to convene a high-level conference. As in previous years, Egypt expressed a desire to hold this conference irrespective of the completion of the comprehensive convention. The Egyptian delegation noted that the Movement of Non-Aligned Countries had endorsed the proposal for the conference in 2006. Egypt urged that the convening of the conference not be tied to the completion of the convention, as some of the topics discussed at the conference would not be addressed by the Convention. Furthermore, Egypt submitted that the conference would present an opportunity for dialogue, through which differences of opinion might be eliminated.

[16.](#) (SBU) Some delegates supported the proposal to convene the conference notwithstanding completion of the convention (Pakistan and Indonesia). Other delegates reiterated their support for the Egyptian proposal in principle; however, noted that the proposal should be considered only after the finalization of the draft convention (European Union and

India).

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Intersessional Informal Contacts  
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17. (SBU) Ms. Maria Telalian (Greece), Committee Vice-Chairman, briefed the Committee on the informal intersessional bilateral contacts, which took place during January-February 2007. Intersessional contacts took the form of informal meetings with individual delegations and focused

on outstanding issues concerning the draft comprehensive convention. The US delegation met with the Chairman and Vice-Chairman during the session and reiterated our position on the text. Telalian informed the delegation that she planned to present a compromise text for delegations' consideration (paragraph 10).

18. (SBU) On February 9, the Vice-Chairperson presented the compromise text below, which she characterized as "elements of an overall package." She explained that the language of the preamble was based on language contained in the Terrorist Bombings and Nuclear Terrorism Conventions and is intended to affirm that there are existing rules of international law that are applicable to military forces of a state acting in official duties.

19. (SBU) Telalian affirmed that paragraph 3 of article 18 was intended to cover both substantive and procedural aspects, and that the phrase "inasmuch as they are governed by other rules of international law" comprised both lawful and unlawful conduct under international law. Together with paragraph 3, paragraph 4 was to be understood as meaning that it did not make lawful, otherwise unlawful acts. Moreover, such conduct, if unlawful, did not preclude prosecution under other laws. Telalian noted that to further clarify this prohibition against impunity, paragraph 4 had been amended to include the word "punishable." The addition was to underscore that there is an inner core of offenses that remain punishable irrespective of the regime that would apply.

10. (SBU) Telalian explained that the newly added paragraph 5 consisted of a general statement with regard to rules of international law applicable for certain acts that would be lawful under international humanitarian law. Telalian stressed that it would be up to the parties to the convention and the judicial authorities to interpret the paragraph in light of the circumstances of specific cases. Parties would have to determine the relationship between the convention and international humanitarian law in accordance to the circumstances particular to each case.

BEGIN TEXT

Preamble

Noting that the activities of military forces of States are governed by rules of international law outside the framework of this Convention and that the exclusion of certain actions from the coverage of this Convention does not condone or make lawful otherwise unlawful acts, or preclude prosecution under other laws,

Text relating to article 18 of the draft comprehensive convention:

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws; acts that would amount to an offense as defined in article 2 of this Convention remain punishable under such laws.

5. This Convention is without prejudice to the rules of international law applicable in armed conflict, in particular those rules applicable to acts lawful under international humanitarian law. END TEXT.

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